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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 2, 4, 13, 18, and 19**

**[FAR Case 2015-020; Docket 2015-0020; Sequence 1]**

**RIN: 9000-AN09**

**Federal Acquisition Regulation; Simplified Acquisition**

**Threshold for Overseas Acquisitions in Support of**

**Humanitarian or Peacekeeping Operations**

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Proposed rule.

**SUMMARY:** DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement a higher simplified acquisition threshold for overseas acquisitions in support of humanitarian or peacekeeping operations.

**DATES:** Interested parties should submit written comments to the Regulatory Secretariat at one of the addresses shown below on or before **[Insert date 60 days after publication in the FEDERAL REGISTER]** to be considered in the formulation of a final rule.

**ADDRESSES:** Submit comments in response to FAR Case 2015-020 by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by searching for "FAR Case 2015-020". Select the link "Comment Now" that corresponds with FAR Case 2015-020. Follow the instructions provided at the "Comment Now" screen. Please include your name, company name (if any), and "FAR Case 2015-020" on your attached document.

- Mail: General Services Administration, Regulatory Secretariat (MVCB), ATTN: Ms. Flowers, 1800 F Street, NW, 2nd Floor, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR Case 2015-020, in all correspondence related to this case. Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check [www.regulations.gov](http://www.regulations.gov), approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Ms. Kathlyn Hopkins, Procurement Analyst, at 202-969-7226, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755. Please cite FAR case 2015-020.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The purpose of this rule is to implement 41 U.S.C. 153, which establishes a higher simplified acquisition threshold (SAT) for overseas acquisitions in support of humanitarian or peacekeeping operations. FAR Case 2003-022 was published as an interim rule on February 23, 2004 (69 FR 8312) and as a final rule on December 20, 2004 (69 FR 76350). Drafters of that rule revised the definition for SAT contained at FAR 2.101, Definitions, but also inadvertently deleted the reference to overseas humanitarian or peacekeeping missions and the requisite doubling of the SAT in those circumstances. The civilian statute at the time was numbered 41 U.S.C. 259(d)(1); it is now at 41 U.S.C. 153. The purpose of this rule is to reinstate the increased SAT for overseas acquisitions for peacekeeping or humanitarian operations. Conforming changes are made in FAR parts 4, 13, 18, and 19.

### **II. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health

and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

### **III. Regulatory Flexibility Act**

DoD, GSA, and NASA do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the rule merely provides flexibilities associated with contracting under the SAT for overseas acquisitions in support of humanitarian or peacekeeping operations. However, an Initial Regulatory Flexibility Analysis (IRFA) has been performed, and is summarized as follows:

The purpose of this rule is to implement 41 U.S.C. 153, which establishes a higher SAT for overseas acquisitions in support of humanitarian or peacekeeping operations. The increased threshold is limited to those procurements. In Fiscal Year 2014, 1,545 awards were made in support of humanitarian or peacekeeping operations, and 585 (37.86 percent) of these awards were to small businesses. Additionally, only 81 (5.24 percent) of the awards were valued between \$150,000 and \$300,000. Therefore, it is not anticipated that this rule will have a significant economic impact on small businesses.

The rule does not duplicate, overlap, or conflict with any other Federal rules. No alternatives were determined that will accomplish the objectives of the rule.

The Regulatory Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 610 (FAR Case 2015-020), in correspondence.

#### **IV. Paperwork Reduction Act**

This rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

#### **List of Subjects in 48 CFR Parts 2, 4, 13, 18, and 19**

Government procurement.

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Office of Government-wide  
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Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 2, 4, 13, 18, and 19 as set forth below:

1. The authority citation for 48 CFR parts 2, 4, 13, 18, and 19 continues to read as follows:

**AUTHORITY:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

## **PART 2—DEFINITIONS OF WORDS AND TERMS**

2. Amend section 2.101 in paragraph (b) (2), by revising the definition "Simplified acquisition threshold" to read as follows:

### **2.101 Definitions.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

Simplified acquisition threshold means \$150,000, except for—

(1) Acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a contingency operation or to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack (41 U.S.C. 1903), the term means—

(i) \$300,000 for any contract to be awarded and performed, or purchase to be made, inside the United States; and

(ii) \$1 million for any contract to be awarded and performed, or purchase to be made, outside the United States.

(2) Acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a humanitarian or peacekeeping operation (41 U.S.C. 153 and 10 U.S.C. 2302), the term means \$300,000 for any contract to be awarded and performed, or purchase to be made, outside the United States.

\* \* \* \* \*

#### **PART 4—ADMINISTRATIVE MATTERS**

##### **4.1102 [Amended]**

3. Amended section 4.1102 by removing from paragraph (a) (3) (i) "10 U.S.C. 2302(7)" and adding "10 U.S.C. 2302(8)" in its place.

#### **PART 13—SIMPLIFIED ACQUISITION PROCEDURES**

##### **13.003 [Amended]**

4. Amended section 13.003 by removing from paragraph (b) (1) "described in paragraph (1)" and adding "described in paragraph (1) (i)" in its place.

#### **PART 18—EMERGENCY ACQUISITIONS**

5. Amend subpart 18.2 by redesignating section 18.204 as section 18.205; and adding a new section 18.204 to read as follows:



**18.204 Humanitarian or peacekeeping operation.**

(a) A humanitarian or peacekeeping operation is defined in 2.101.

(b) Simplified acquisition threshold. The threshold increases when the head of the agency determines the supplies or services are to be used to support a humanitarian or peacekeeping operation. (See 2.101.)

**PART 19—SMALL BUSINESS PROGRAMS**

**19.203 [Amended]**

6. Amended section 19.203 by removing from paragraph (b) "described in paragraph (1)" and adding "described in paragraph (1)(i)" in its place.

**19.502-2 [Amended]**

7. Amended section 19.502-2 by removing from paragraph (a) "described in paragraph (1) of the Simplified Acquisition Threshold" and adding "described in paragraph (1)(i) of the simplified acquisition threshold" in its place.

**[BILLING CODE 6820-EP]**

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